

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**CrI. M.C. No. 4827-32/2006**

**22.10.2007**

**Date of Decision: 22nd October, 2007**

**Vinod Kumar Sharma and Ors. ....Petitioners**

**Through Mr. Ranjan Sharma, Advocate for the petitioners**

**versus**

**\$ The State and Another ..... Respondents**

**Through Mr. Pawan Behl, APP for the State.**

**Ms. Kalpana, Advocate for the Complainant.**

**Complainant in person.**

**CORAM:**

**HON'BLE MR. JUSTICE P.K.BHASIN**

**1. Whether Reporters of local papers may be allowed to see the judgment?(No)**

**2. To be referred to the Reporter or not?(No)**

**3. Whether the judgment should be reported in the digest?(No)**

**JUDGMENT**

**P.K.BHASIN, J:**

**This petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.?) has been filed for quashing of FIR No. 887/2004 under Sections 406/498A of Indian Penal Code ('I.P.C.' in short), registered at Police Station Punjabi Bagh on 20.11.2003 and also the criminal**

**proceedings emanating therefrom pending in the Court of Ms. Barkha Gupta, Metropolitan Magistrate, Rohini Courts, Delhi.**

**2. The relevant facts are that the marriage between petitioner no. 1 and respondent no. 2 was solemnized according to Hindu customs on 05.12.2002. Petitioner nos. 2 and 3 are parents-in-law, petitioner nos. 4 and 5 are jeth and jethani and petitioner no. 6 is the sister-in-law of the respondent no. 2 herein. After the marriage between the petitioner no. 1 and respondent no. 2 disputes arose between respondent no. 2 and her in-laws which led to the registration of an FIR under Sections 498-A/406 IPC at Punjabi Bagh police station at the behest of respondent no. 2. In her complaint to the police the respondent no. 2 had made allegations of torture to her by the petitioners for not fulfilling their demands of dowry. The police did the investigation and then filed a charge-sheet in the concerned Court against the petitioners where trial is stated to be going on.**

**3. During the pendency of the above said criminal proceedings in Court,**

the complainant and the petitioners have amicably resolved their disputes and arrived at an amicable settlement as regards maintenance, stri dhan/dowry articles etc. Copy of the compromise deed has been annexed with this petition as Annexure ? A. Thereafter a petition under Section 13 B(2) of the Hindu Marriage Act, 1955 seeking divorce by mutual consent was instituted by the petitioner no. 1 and respondent no.2. The learned Additional District Judge vide judgment dated 05.04.2006 in H.M.A. Case No. 123/2006 has dissolved their marriage by a decree of divorce. Copy of that judgment has also been placed on record.

4. Since the offences for which the petitioners were being prosecuted were not compoundable as per the provisions of Section 320 Cr.P.C the present petition under Section 482 Cr.P.C. was filed by the petitioners for quashing the FIR and the resultant criminal proceedings pending in Court. Notice of the petition was sent to respondent no.2-complainant. She appeared in person along with a counsel on 03-10-2007 before this Court and she also affirmed that disputes had been amicably resolved and so she was no more interested in pursuing her case against any of the petitioners. She supported the prayer of the petitioners for quashing of the FIR and the criminal proceedings pending in Court. She also admitted that her marriage with petitioner has been dissolved through a petition for divorce by mutual consent. Learned APP for the State had submitted that since the parties had compromised amicably the State had nothing to say in the matter.

5. In support of the prayer made in the petition for quashing of the FIR learned counsel for the petitioners placed reliance upon a judgment of the Hon?ble Supreme Court in ?B.S.Joshi and Ors. Vs. State of Haryana and Anr.?, AIR 2003 SC 1386. That was also a case under Sections 498-A/323/406 IPC and during the pendency of criminal proceedings the disputes between the parties were settled. Petition was filed in the High Court for quashing of the FIR but that petition was dismissed by the High Court on the ground that the offences under Sections 498-A and 406 IPC being non-compoundable the inherent powers under Section 482 Cr.P.C. could not be invoked to bypass the mandatory provision of Section 320 Cr.P.C. While reversing the decision of the High Court the Hon?ble Supreme Court observed that ?if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing.? It was also observed that in case of matrimonial disputes it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. In paras no. 13 and 14 of the judgment it was observed as under:-

?13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad and Ors. MANU/SC/0156/2000 are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony the main

purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of

the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reason which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their ?young? days in chasing their ?cases? in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechanical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.?

After observing so the Hon?ble Supreme Court quashed the FIR in view of the fact that the matrimonial dispute between the parties had been amicably resolved.

6. The complainant in the present case, as noticed already, has herself admitted before this Court that because of the settlement of the disputes with the petitioners she is no more interested in the prosecution of the petitioners pursuant to the FIR got registered by her. Thus, in view of the afore-quoted views of the Hon?ble Supreme Court in B.S.Joshi?s case(supra) the FIR registered at the instance of respondent no. 2-complainant against the petitioners as well as the criminal trial arising out of the said FIR deserve to be quashed since the parties have amicably resolved their disputes.

7. This petition is accordingly allowed and consequently FIR bearing No. 887/2004 under Sections 406/498A registered at Police Station Punjabi Bagh and the criminal proceedings emanating therefrom pending in the Court of Ms. Barkha Gupta, Metropolitan Magistrate, Rohini, Delhi, are hereby quashed.

P.K.BHASIN,J  
October 22, 2007  
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